

Law Office of G. Anthony Long  
P. O. Box 504970  
San Jose, Saipan, MP 96950  
Tel. No. (670) 235-4802  
Fax. No. (670) 235-4801

Attorney for Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN MARIANA ISLANDS**

GUIHUA BAI	)	<b>CIVIL ACTION NO. 07-0016</b>
	)	
Plaintiff	)	
	)	
v.	)	REPLY SUPPORTING
	)	MOTION TO DISMISS AND
GINTIAN CORPORATION, dba	)	FOR PARTIAL SUMMARY
LIGHT MASSAGE, ZHONG LI and	)	JUDGMENT
"MR. ZHU"	)	
	)	
Defendant.	)	Date: July 12, 2007
	)	
_____	)	Time: 9:00 a.m.

Although a reading of the amended complaint suggests plaintiff is pursuing a FLSA minimum wage violation and FLSA retaliation claims. However, plaintiff represents that she is not pursuing any such claims in this litigation. Based on this representation, defendants request an order reflecting this representation.

Plaintiff claims a six year limitations period exists for her contract claims. That is an incorrect statement of Commonwealth law. Commonwealth law specifically provides that:

[e]xcept as provided in subsection (b) of this section, any action commenced on or after October 4, 1996, to enforce a cause of action for unpaid wages, unpaid overtime compensation, or liquidated damages under the Minimum Wage and Hour Act, 4 CMC § 9211 et seq., or **any other cause of action under the Nonresident Worker Act, 3 CMC § 4411 et seq.**, must be commenced within six months after the cause of action accrued, and every action shall be forever barred unless commenced within six months after the cause of action accrued, except that a cause of action arising out of a willful violation may be commenced within one year after the cause of action accrued.

4 CMC § 9246(a)(emphasis added). Subsection (b) applies to claims which accrued prior to October 4, 1996, and is irrelevant to this case. Thus, the limitations period on plaintiffs minimum wage claims is limited to six months unless the complaint is construed as alleging willful violation in which case the limitations period is one year.

## CONCLUSION

An order should be entered in which plaintiff concedes she is not pursuing a FLSA minimum wage or retaliation claim. Also, partial summary judgment is appropriate on the minimum wage claim as it is limited to six month or at most

one year, provided the complaint alleges the violation was willful.

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By \_\_\_\_\_/s/\_\_\_\_\_  
G. Anthony Long